

REMARKS

Claims 10-13, 16-28, and 58-60 are pending. By this Preliminary Amendment, Claims 10, 17 and 24 are amended. Because support for the amendments to Claims 10, 17 and 24 is provided in the application as originally filed, for example, see Figure 6, Applicants respectfully submit that no new matter is presented herein.

Claim Rejections – 35 U.S.C. §102/§103

Claims 10, 13, 16-18, 21-25 and 28 are rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent Number 5,462,256 to Minick et al. (Minick); Claims 10-13, 17-22 and 58-59 are rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent Number 5,158,437 to Natwick in view of United States Patent Number 5,647,852 to Atkinson; and Claims 16, 23-28 and 60 are rejected under 35 U.S.C. §103(a) as being unpatentable over Natwick and Atkinson as applied to the claims above, and further in view of Minick.

Applicants respectfully traverse each of the rejections for at least the following reason(s).

As argued in the Response dated March 24, 2008, Claims 10, 17 and 24 each recite a cartridge cassette including, among other features, upstream and downstream valves disposed in a cartridge and in fluid communication with a source of fluid (upstream valve only) or irrigation conduit (downstream valve only) . . . , ***wherein the upstream and downstream valves are parallel relative to each other.***

Applicants note that nowhere in item 1 of the Office Action is there an assertion that Minick discloses, teaches or remotely suggests the upstream valve (61) and the downstream valve (62) are parallel relative to each other. Put simply, the Office Action

is totally silent as to whether Minick actually teaches the upstream and downstream valves, 61 and 62, respectively, are parallel relative to each other. As such, absent proof to the contrary, Applicants respectfully submit that the Office Action essentially **admits** that Minick fails to disclose, teach or remotely suggest such a feature.

Moreover, in the *Response to Arguments* portion, the Office Action states “[a]pplicant has argued that the valves of Minick are coaxial and not parallel. The examiner believes that something **can be** coaxial and parallel, for example a dual-lumen catheter which has two coaxial lumens (a “tube in a tube”) which are also considered parallel (emphasis added).”

Applicants respectfully submit that absent an explicit, or even inherent, teaching of each and every feature recited by a pending claim, what “can be” possible with the upstream and downstream valves of Minick is irrelevant and immaterial to the question of patentability of the claimed invention recited by Claims 10, 17 and 24 under 35 U.S.C. §102. In this regard, Applicants respectfully request that in any subsequent communication from the Patent Office maintaining or otherwise asserting the above discussed point, that the Office identify where Minick discloses, teaches or remotely suggests that the coaxial or serial upstream and downstream valves 61 and 62, respectively, are parallel relative to each other.

Put simply, Claims 10, 17 and 24 each recite upstream and downstream valves that are parallel relative to each other. Minick teaches upstream and downstream valves (61 and 62) that are coaxial or serial relative to each other and not parallel. What “can be” possible with respect to Minick’s valves (61 and 62) is not relevant to the question of patentability of Claims 10, 17 and 24 under 35 U.S.C. §102.

To qualify as prior art under 35 U.S.C. §102, each and every feature recited by a rejected claim must be disclosed by the applied art of record. Since Minick does not disclose each and every feature recited by Claims 10, 17 and 24, Applicants respectfully submit that Minick does not anticipate, nor render obvious, Claims 10, 17 and 24, and that Claims 10, 17 and 24 should be deemed allowable over Minick.

As for the rejections under 35 U.S.C. §103, Applicants note that Claims 10, 17 and 24 each recite a cartridge cassette including, among other features, ***upstream and downstream valves*** disposed in a cartridge and in fluid communication with a source of fluid (upstream valve only) or irrigation conduit (downstream valve only) and ***in direct communication with the pumping chamber***, wherein the upstream and downstream valves are parallel relative to each other.

Natwick clearly and unambiguously teaches an inlet valve/port (306) and an outlet valve/port (308) that are not in direct communication with the pumping chamber (360) due to the presence of respective cracking chambers (356 and 366) therebetween. In other words, Natwick teaches inlet and outlet or upstream and downstream valves/ports that are in indirect communication with the pumping chamber due to the cracking chambers (356 and 366) therebetween. See Figures 17-19 of Natwick.

Atkinson is now cited merely for teaching spring loaded poppet valves and therefore does not cure or otherwise address the deficiency of Natwick.

Minick, which is discussed above, also fails to teach or suggest the upstream and downstream valves being indirect communication with the pumping chamber 22. See Figure 3.

For the reason discussed above, Applicants respectfully submit that Natwick, Atkinson and Minick, alone or in any combination thereof, do not teach or otherwise suggest the invention recited by Claims 10, 17 and 24.

Therefore, Applicants respectfully submit that Claims 10, 17 and 24 are not rendered obvious in view of Natwick, Atkinson, and/or Minick and should be deemed allowable.

Claims 11-13, 16 and 58 depend from Claim 10; Claims 18-23 and 59 depend from Claim 17; and 25-28 and 60 depend from Claim 24. It is respectfully submitted that these dependent claims be deemed allowable for at least the same reason(s) Claims 10, 17 and 24, respectively, are allowable as well as for the additional subject matter recited therein.

Withdrawal of the rejections is respectfully requested.


Conclusion

In view of the above, reconsideration of the application, withdrawal of the outstanding rejections, allowance of Claims 10-13, 16-28 and 58-60, and the prompt issuance of a Notice of Allowability is respectfully requested.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 029714.00027.**

Respectfully submitted,


Murat Ozgu
Registration No. 44,275

Customer No. 79439

ARENT FOX LLP

1050 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036-5339
Tel: (202) 857-6000
Fax: (202) 638-4810

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